

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Criminal Action No.: 16-cr-00319-RBJ

UNITED STATES OF AMERICA,

Plaintiff,

v.

TAYSON ADAM HIDALGO,

Defendant.

**DEFENDANT'S PLEA OF GUILTY WITHOUT PLEA AGREEMENT AND
STIPULATED STATEMENT OF FACTS RELEVANT TO SENTENCING**

Mr. Tayson A. Hidalgo, the Defendant (hereafter "Mr. Hidalgo"), by and through counsel, Mary V. Butterson, submits the following Plea of Guilty Without Plea Agreement and Stipulated Statement of Facts Relevant to Sentencing.

I. PLEA OF GUILTY

Mr. Hidalgo intends to plead of guilty to Count 1 of the Indictment, a violation of 18 U.S.C. § 1703, delay or destruction of mail.

Consistent with that plea of guilty, Mr. Hidalgo believes that he will be entitled to receive the full downward adjustment for acceptance of responsibility pursuant to the advisory sentencing guidelines.¹ This plea is submitted to the Court for its consideration

¹ It is anticipated that Mr. Hidalgo will be entitled to receive a two level reduction for acceptance of responsibility under USSG § 3E1.1(a). However, if Mr. Hidalgo's total offense level is 16 or above, he believes he should also obtain the additional one level reduction under USSG § 3E1.1(b) as he timely notified the government of his intention to plead guilty. Should the government not move for the third acceptance point reduction, he will request the Court grant a three level reduction for acceptance of responsibility.

pursuant to Rule 11 of the Federal Rules of Criminal Procedure.

II. ELEMENTS OF THE OFFENSE(S)

The parties agree that the elements of the offense to which this plea is being tendered are as follows:

- First:*** The defendant was a Postal Service employee at the time alleged in the Indictment;
- Second:*** As a Postal Service employee, the defendant knowingly secreted, destroyed, detained, delayed, or opened mail that was entrusted to him and came into his possession; and,
- Third:*** Such mail was intended to be conveyed by mail, or carried or delivered by any carrier or Postal Service employee.

III. STATUTORY PENALTIES AND COLLATERAL CONSEQUENCES

The maximum statutory penalty for a violation of 18 U.S.C. § 1703 is not more than five years imprisonment; not more than a \$250,000 fine, or both; not more than 3 years supervised release; and a \$100 special assessment fee. If a term of probation or supervised release is imposed, any violation of the terms and/or conditions of supervision may result in an additional term of imprisonment.

The conviction may cause the loss of civil rights, including but not limited to the rights to possess firearms, vote, hold elected office, and sit on a jury.

IV. STIPULATION OF FACTUAL BASIS AND FACTS RELEVANT TO SENTENCING

Mr. Hidalgo submits that there is no dispute as to the material elements which establish a factual basis of the offense of conviction. The Government has agreed to stipulate to the facts below.

Pertinent facts are set out below in order to provide a factual basis of the plea and to provide facts which are relevant, pursuant to § 1B1.3, for computing the appropriate guideline range.

The statement of facts herein does not preclude Mr. Hidalgo from presenting and arguing, for sentencing purposes, additional facts relevant to the guideline computation (§ 1B1.3) or to sentencing in general (§ 1B1.4). In "determining the factual basis for the sentence, the court will consider the stipulation [of the parties], together with the results of the presentence investigation, and any other relevant information." (§ 6B1.4 Comm.)

Mr. Hidalgo submits that the government's evidence would be:

The defendant, Tayson Adam Hidalgo, was a City Carrier Assistant with the United States Postal Service ("USPS") in Sterling, Colorado at all relevant times in this case.

On April 11, 2016, Postmaster Baker of the USPS in Sterling, Colorado, contacted USPS Office of Inspector General ("OIG") Special Agent Muniz regarding a complaint about an individual who had a large number of mail items inside his apartment.

Approximately a month prior, *i.e.*, on or about March 15, 2016, the local water company in Sterling, Colorado notified the owners of Saylor Apartment Complex, located at 210 N. Division Avenue in Sterling that their monthly bill had increased due to a possible water leak on their property. The water company recommended that the owners enter Unit 7 to inspect for a water leak. Upon entering Unit 7, the owners noticed large amounts of mail strewn throughout the apartment. The owners took pictures of the mail with a disposable camera. Through paperwork on file, the owners

determined that Hidalgo leased Unit 7. On April 9, 2016, the owners entered Unit 7 to conduct water faucet repairs and noticed that the mail previously seen on or about March 15, 2016 was still strewn throughout the apartment. On April 11, 2016, the owners contacted Postmaster Baker, advised him as to the mail in Unit 7, and gave him the photographs taken on or about March 15, 2016.

On April 12, 2016, Agent Muniz and Agent Mitchell interviewed the owners of Saylor Apartments. Based upon information gained from the interview, Agent Muniz sought a federal search warrant for Unit 7. On April 19, 2016, a federal judge signed a search warrant for Unit 7. On April 25, 2016, USPS OIG Agents executed the search warrant. Agents found approximately 18,916 pieces of mail inside Unit 7. Agent Muniz was present during the execution of the search warrant. After confirming that mail was inside Unit 7, Agent Muniz left Unit 7 to interview Hidalgo at the Post Office in Sterling, Colorado. Agent Mitchell accompanied Agent Muniz to interview Hidalgo. Agent Muniz and Agent Mitchell contacted Hidalgo at the Sterling Post Office. Agent Muniz gave Hidalgo *Garrity* warnings and Hidalgo agreed to speak with Agent Muniz and Agent Mitchell. Hidalgo originally denied that he had undelivered mail in his apartment. He later recanted and admitted that he had undelivered mail in his apartment and in his car. Hidalgo consented to Agents searching his car for mail. Agents found approximately 7,509 pieces of mail in Hidalgo's car that was parked in the Sterling Post Office parking lot.

All mail found in Hidalgo's apartment or car is either unopened, opened, or destroyed. The earliest post-mark date for mail recovered is October 3, 2014 and the latest post-mark date is April 21, 2016.

V. ADVISORY GUIDELINE COMPUTATION AND 3553 ADVISEMENT

Mr. Hidalgo understands that the imposition of a sentence in this matter is governed by 18 U.S.C. § 3553. In determining the particular sentence to be imposed, the Court is required to consider seven factors. One of those factors is the sentencing range computed by the Court under advisory guidelines issued by the United States Sentencing Commission. In order to aid the Court in this regard, the parties set forth below their estimate of the advisory guideline range called for by the United States Sentencing Guidelines. Defendant understands that:

- A. The base guideline is § 2B1.1(a)(2), with a base offense level of 6.
- B. The defendant's base offense level is *increased by two levels* pursuant to the specific offense characteristic in § 2B1.1(b)(2)(A)(i) because this offense involves more than ten victims. This results in an adjusted offense level of 8. No other specific offense characteristic in § 2B1.1(b) applies.
- C. Pursuant to § 3B1.3 cmt. n. 2(A), the base offense level is *increased by two levels* because the defendant abused a position of public or private trust. This results in an adjusted offense level of 10.
- D. There are no other victim-related, role-in-offense, obstruction and/or multiple count adjustments.
- E. The defendant should receive a **2-level** adjustment for acceptance of responsibility under § 3E1.1. The resulting offense level therefore would be 8.
- F. The parties understand that the defendant's criminal history computation is tentative. The criminal history category is determined by the Court

based on the defendant's prior convictions. Based on the information currently available to the parties, it is estimated that the defendant's criminal history category would be I.

G. Assuming the criminal history facts known to the parties are correct, the armed career criminal statute does not apply.

H. Imprisonment: The advisory guideline range of imprisonment resulting from an offense level of 8 and the above criminal history category I is 0 – 6 months. However, in order to be as accurate as possible, with the criminal history category undetermined at this time, the offense level estimated above could conceivably result in a range from 0 months (bottom of Category I) to 24 months (top of Category VI).

In any event, the guideline range would not exceed the statutory maximum applicable to the count of conviction.

I. Pursuant to guideline § 5E1.2, assuming the estimated offense level of 8, the fine range for this offense would be \$2,000 to \$20,000 plus applicable interest and penalties.

J. Pursuant to guideline § 5D1.2, if the Court imposes a term of supervised release, that term shall be at least one year but not more than three years.

K. The defendant agrees that he is fully liable to those victims who suffered loss as a result of his actions that form the basis of the Indictment [ECF No. 1]. The parties are in the process of determining the total amount of restitution owed and the defendant agrees to pay restitution in an amount finally calculated by the Court.

Mr. Hidalgo understands that although the Court will consider the foregoing estimate, the Court must make its own determination of the guideline range. In doing so, the Court is not bound by estimate herein.

No estimate regarding the guideline range precludes Mr. Hidalgo from asking the Court, within the overall context of the guidelines, to depart from that range at sentencing if he believes that a departure is specifically authorized by the guidelines or that there exists an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the United States Sentencing Commission in formulating the advisory guidelines. Similarly, no estimate regarding the guideline range precludes Mr. Hidalgo from asking the Court to vary entirely from the advisory guidelines and to impose a non-guideline sentence based on other 18 U.S.C. § 3553 factors.

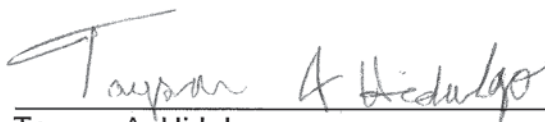
Mr. Hidalgo understands that the Court is free, upon consideration and proper application of all 18 U.S.C. § 3553 factors, to impose that reasonable sentence which it deems appropriate in the exercise of its discretion and that such sentence may be less than that called for by the advisory guidelines (in length or form), within the advisory guideline range, or above the advisory guideline range up to and including imprisonment for the statutory maximum term, regardless of any computation or position of any party on any 18 U.S.C. § 3553 factor.

VII. DEFENDANT'S UNDERSTANDING

This document states Mr. Hidalgo's entire understanding. There is no plea agreement in this case and also there are no promises, agreements (or "side agreements"), terms, conditions, understandings, or assurances, express or implied. In entering this plea of guilty, Mr. Hidalgo has not relied, or is not relying, on any terms, promises, conditions, or

assurances not expressly stated in herein.

Date: 12/20/16



Tayson A. Hidalgo
Defendant

Date: 12/20/16



Mary V. Butters
Attorney for Defendant